

Appl. No. 09/989,426

Art Unit 1774

May 18, 2004

Reply to Office Action of November 19, 2004

REMARKS

Applicants respectfully request the Examiner to reconsider the present application in view of the foregoing amendments to the claims.

Claim 7 has been canceled without prejudice or disclaimer of the subject matter contained therein. Claims 1 and 3 have been amended. Claims 13-20 stand withdrawn from consideration. Thus, claims 1-6 and 8-20 are pending in the present application.

Also, claim 7 stands objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims (as stated in paragraph 13 of the Office Action). Thus, Applicants respectfully refer the Examiner to claims 1 and 3 as presented, wherein these claims incorporate the allowable subject matter of claim 7. Therefore, Applicants respectfully submit that the presently pending claims are in condition for allowance.

No new matter has been added by way of the amendments to claim 1 and 3 because each amendment is supported by the present specification and merely incorporates the allowable subject matter. For example, the amendments to claims 1 and 3 have support in the present specification at, e.g., the paragraph bridging pages 4-5. Thus, no new matter has been added.

No new matter has been added with the changes to the present specification and the drawing of Figure 3. The specification as amended

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now contains a reference to filament "Fa(5)", which is clearly shown in Figure 3. Also, Figure 3 has been amended to refer to "straight portion Y3", which is clearly described in the present specification at page 5, lines 1-2. Thus, no new matter has been added.

Based upon the above considerations, entry of the present amendment is respectfully requested. It is also respectfully requested that the present Reply be entered into the Official File in view of the fact that the Reply automatically places the application in condition for allowance. No new issues are raised since subject matter of the same scope are presented. Thus, the present Reply is believed to be in proper form for placing the application in condition for allowance.

In the alternative, if the Examiner continues with the rejections of the present application, it is respectfully requested that the present Reply be entered for purposes of an Appeal. The Reply reduces the issues on appeal by reducing the number of claims and/or overcoming the rejections under 35 U.S.C. § 102(b) and § 103(a). Thus, the issues on appeal would be reduced.

As a side note, Applicants respectfully submit that "claims 3-20" at the second to last line of paragraph 3 of the Office Action appears to be a misprint (versus "claims 13-20" at Box 4 of the PTO-326 form).

In view of the following remarks, Applicants respectfully request that the Examiner withdraw all rejections and allow the currently pending claims.

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Issues Under 35 U.S.C. §§ 102(b) and 103(a)

Claims 1-6 and 8-12 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Ishizaka '641 (U.S. Patent No. 5,706,641) (as stated in paragraphs 9-10 of the Office Action). Also, claims 1 and 9-12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ishizaka '641 (as stated in paragraphs 11-12 of the Office Action). This rejection respectfully is traversed to the extent deemed to apply to the claims as amended.

Applicants respectfully refer the Examiner to the scope of the claims as presented. Claims 1 and 3 encompass the allowable subject matter of claim 7 (see paragraph 13 of the Office Action). Accordingly, Applicants respectfully submit that claims 1 and 3 are automatically in condition for allowance. Further, the other disputed claims of 2, 4-6 and 8-12 ultimately depend on either claim 1 or 3. Thus, Applicants respectfully submit that these dependent claims are also in condition for allowance.

Applicants also submit that because "a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference," the cited Ishizaka '641 reference cannot be a basis for a rejection of claims 1-6 and 8-12 under § 102(b). See *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Thus, because of the lack of disclosure of all features as instantly

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claimed, the rejection in view of Ishizaka '641 is overcome.

Reconsideration and withdrawal are respectfully requested.

Also, Applicants respectfully submit that the rejection under 35 U.S.C. § 103(a) has also been overcome since a *prima facie* case of obviousness requires that the prior art reference (or references when combined) must teach or suggest all the claim limitations. See *In re Vaeck*, 947 F.2d, 488, 493, 20 USPQ2d 1438, 1442 (Fed. Cir. 1991).

Thus, Applicants respectfully request the Examiner to reconsider and to withdraw all rejections and allow the currently pending claims.

Conclusion

A full and complete response has been made to all issues as cited in the Office Action. Applicants have taken substantial steps in efforts to advance prosecution of the present application. Thus, Applicants respectfully request that a timely Notice of Allowance issue for the present case.

Should there be any outstanding matters that need to be resolved in the present application (i.e., a discussion of withdrawn subject matter), or in an effort to advance prosecution, the Examiner is respectfully requested to contact Eugene T. Perez (Reg. No. 48,501) at the telephone number of the undersigned below, to conduct an interview in connection with the present application.

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Pursuant to 37 C.F.R. § 1.17 and 1.136(a), Applicants respectfully petition for a three (3) month extension of time for filing a response in connection with the present application. **The required fee of \$950.00 has been submitted with the Notice of Appeal filed concurrently herewith.**


If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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By 

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Attachment(s)



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Reply to Office Action Dated Nov. 19, 2003
ANNOTATED SHEET SHOWING CHANGES

Fig. 3

